

or power supply borrowers pursuant to RUS wholesale power contracts.

Preclosing notice shall mean a notice delivered by the Government to the borrower in response to a closing request, identifying the closing date, the Qualified Notes to be prepaid at such closing and documents to be delivered by the borrower to the Government prior to the closing date.

Prepayment agreement shall have the meaning set forth in § 1786.158.

Qualified Notes shall have the meaning set forth in § 1786.154.

RE Act means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture.

RUS Loan Contract means the agreement, as amended, supplemented, or restated from time to time, between a borrower and RUS providing for loans or loan guarantees pursuant to the RE Act.

RUS Mortgage means collectively those mortgages and security agreements made by and among the borrower, the Government, and third parties, if any, securing indebtedness evidencing electric loans or loan guarantees made pursuant to the RE Act.

Rural development loans means loans or grants made pursuant to Rural development programs.

Rural development programs means loan or grant programs under the authority of the Administrator pursuant to sections 313, 501, and 502 of the RE Act.

Supplemental lender means a private lender whose loan to the borrower is secured by the RUS mortgage.

Tax exempt financing means borrowing evidenced by bonds, notes and other evidence of indebtedness the income of which is excluded from gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(b) *Rules of construction.* Unless the context shall otherwise indicate, the terms defined in paragraph (a) of this section include the plural as well as the singular, and the singular as well as the plural.

§ 1786.152 Prepayments of RUS loans.

An electric loan made under the RE Act shall not be sold or prepaid at a value that is less than the outstanding principal balance, except that, on request of a borrower, an electric loan made under the RE Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be prepaid by the borrower at the lesser of the outstanding principal balance of the loan or the discounted present value thereof.

§ 1786.153 Discounted present value.

(a) The discounted present value shall be calculated by summing the present values of all remaining payments on all Qualified Notes to be prepaid according to the following formula and adjusted as provided in paragraph (b) of this section if tax exempt financing is used.

$$\text{Present Value} = \sum_{k=1}^n \frac{P_k}{\prod_{i=1}^k \left[1.0 + \left(\frac{D1_i}{365} + \frac{D2_i}{366} \right) I \right]}$$

Where:

The Greek letter, Sigma (Σ) means the sum of the following terms.

The Greek letter, Pi (Π) means the product of the following terms.

P_k =Total payment, including interest due on the K^{th} payment date following the prepayment date.

n =Total number of remaining payment dates to final maturity.

$D1_i$ =Number of days in the i^{th} payment period that are in a non-leap year (365-day year).

$D2_i$ =Number of days in the i^{th} payment period that are in a leap year (366-day year).

I =The discount rate applied to each transaction ascertained by using data specified

Rural Utilities Service, USDA

§ 1786.153

in the "Federal Reserve Statistical Release" (H.15 (519)), which is published each Monday. The availability of this Release will be announced when the information is available by telephone on (202) 452-3206. See adjustment for tax exempt refinancing at paragraph (b) of this section. The specific discount rate will be based on the discount rate(s) specified in the "Treasury Constant Maturities" section of this publication 8 business days prior to the closing and will be interpolated from that information as follows:

Remaining final maturity of RUS loan:		Treasury constant maturities
At least	But less than	
# years	# years	
0	2	1-year.
2	3	2-year.
3	4	3-year.
4	5	(¹)
5	6	5-year.
6	7	(²)
7	8	7-year.
8	9	(³)
9	10	(³)
10	11	10-year.
11	20	(⁴)
20	21	20-year.
21	30	(⁵)
30	36	30-year.

NOTES: ¹The arithmetic mean between the 3-year and 5-year. Treasury Constant Maturities; i.e., if 3-year. rate is 3.00% and the 5-year. rate is 4.00% then the rate used would be 3.5%.

²The arithmetic mean between the 5-year and 7-year Treasury Constant Maturities computed as above.

³A straight line interpolated rate between the 7-year rate and the 10-year rate. (See formula below)

⁴A straight line interpolated rate between the 10-year note and the 20-year Bond rate. (See formula below)

⁵A straight line interpolated rate between the 20-year bond and the 30-year bond using the following formula:

$$I = B + \frac{((C - E) \times (A - B))}{F - E}$$

Where:

I=The discount rate interpolated from the cost of money to the Treasury.

A=The Treasury interest rate for the most recently published maturity (in years) that is the shortest Treasury term (in years) which is greater than the borrower's remaining term (in years) to final maturity; i.e., (if the note to be prepaid has a final maturity of more than 10 years then this rate is the 20-year Treasury rate)

B=The Treasury interest rate for the most recently published maturity (in years) that is the longest Treasury term (in years) which is less than the borrower's remaining term (in years) to final maturity; i.e., (if the note to be prepaid has a final maturity of more than 10 years but less than 20 years then this term is the 10-year Treasury rate)

C=The remaining number of full years to the final maturity of the borrower's note. Drop all fractions of a year and use the remaining full years.

E=The published Treasury term (in years) to maturity which is the longest term to maturity for the published term that is less than the remaining term (in years) to final maturity of the borrower's note; i.e., (if the note to be prepaid has remaining years to maturity between 11 and 20 years then this term would be 10 or if the note to be prepaid has remaining years to maturity between 21 years and 30 years then this term would be 20).

F=The published Treasury term (in years) to maturity which is the shortest term to maturity for the published term that is greater than the remaining term (in years) to maturity of the borrower's note; i.e., (if the note to be prepaid has remaining years to maturity between 11 and 20 years then this term would be 20 or if the remaining years to maturity is between 21 and 30 years then this term would be 30).

NOTE: The percentage terms used in the above formula will be truncated to two decimal places. For the purpose of the terms A, B, E, and F above the published Treasury rate and term shall mean the Treasury Constant Maturities from the Federal Reserve Statistical Release for 7 years, 10 years, 20 years, and 30 years.

(b)(1) In the event that the borrower prepays a loan under paragraph (a) of this section using, directly or indirectly, tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is no greater than the benefit the borrower would receive if the borrower used financing that was not tax exempt. The borrower shall certify in writing whether the financing will be tax exempt.

(2) The discount rate established in paragraph (a) of this section shall be adjusted for a tax exempt financing by substituting for the "I" term in the discount rate formula, a discount rate equal to the interest rate(s) published pursuant to 7 CFR 1714.5, determination of interest rates on municipal rate loans. This is the interest rate established for the new RUS loan program which is based on municipal interest rates for issues of comparable maturity. No interpolation or average will be used. If a note is to be prepaid under this subpart and is subject to this tax exempt adjustment, the discount rate will be determined from the published

table in the FEDERAL REGISTER. For example, if the note to be discounted matures in the year 1999 then the discount rate will be the interest rate for the year 1999. RUS will publish a schedule of interest rates for municipal rate loans in the FEDERAL REGISTER at the beginning of each calendar quarter. The published rates in effect eight business days prior to closing will be used for the discount rates. All notes to be prepaid that have remaining years to maturity of more than 20 years will be discounted at the interest rate in effect for new RUS municipal rate loans of comparable maturity at the time of closing.

§ 1786.154 Qualified Notes.

An eligible borrower may prepay Qualified Notes under this subpart at the discounted present value. A Qualified Note is a note evidencing an RUS electric loan, all advances of which were made prior to May 1, 1992, or not less than 2 years prior to the date of prepayment closing. See §§ 1786.155(a)(3) and 1786.158 (h) and (j).

§ 1786.155 Eligible borrower.

(a) To be eligible to prepay an electric loan under this subpart, the borrower must be in compliance with the following:

(1) The borrower shall be current on all payment obligations on outstanding loans made or guaranteed by RUS. For the purpose of determining eligibility for prepayment, a default by a power supply borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower;

(2) There shall exist no material defaults under the borrower's RUS Loan Contract and Mortgage;

(3) The borrower shall have expended all funds advanced pursuant to the RUS Loan Contract for the purposes for which such funds were advanced. A borrower will not be eligible to prepay under this subpart if it has any funds advanced pursuant to the RUS Loan Contract in its Construction Fund Account; and

(4) The borrower shall be current on all obligations under any wholesale power contract with an RUS financed power supply borrower.

(b) The eligibility of borrowers that have had any indebtedness representing loans made or guaranteed by RUS restructured shall be determined on a case by case basis considering the terms and conditions of the restructuring agreement.

§ 1786.156 Application procedure.

Any borrower seeking to prepay Qualified Notes under this subpart should apply to the appropriate RUS Regional Director or the Director of the Power Supply Division. The application shall provide the following:

(a) Borrower's RUS designation;

(b) Borrower's name and address;

(c) A certified copy of a resolution of the board of directors of the borrower that the borrower wishes to enter into a prepayment agreement providing for the prepayment of all or a portion of its Qualified Notes;

(d) Listing of each Qualified Note to be prepaid by loan designation, RUS account number, advance date, maturity date, original amount, and outstanding principal balance;

(e) Evidence that the borrower has the ability to obtain the financing necessary to prepay its Qualified Notes listed in paragraph (d) of this section and identification of the source of financing and the need if any of obtaining a lien accommodation from RUS; and

(f) Such additional information as the Administrator may request.

§ 1786.157 Approval of applications.

(a) Ordinarily, within 30 days of receipt, an application will be reviewed and the borrower will be notified as to whether the application has been approved. If the application has not been approved, the borrower will be informed as to the reasons. If the application is approved the borrower shall thereafter be provided with a prepayment agreement for execution.

(b) The Administrator may limit the number of applications approved and closings scheduled from time to time, taking into account, among other matters, administrative considerations of the RUS.